Kentucky Law Journal

Volume 5 | Issue 1 Article 2

1916

The Lawyer

Edmund F. Trabue

Kentucky Law Journal

VOL. V. LEXINGTON, KY., OCTOBER, 1916 NO. 1

THE LAWYER.

*ADDRESS BY HON. EDMUND F. TRABUE, OF THE LOUISVILLE (KY.) BAR, BEFORE THE CINCINNATI BAR ASSOCIATION ON APRIL 18, 1916.

A chance question to your president on a phase of my theme brought an invitation to talk to you on the subject and the proverbial readiness of lawyers to talk without fees—and my ever present desire to be with my friends of the Cincinnati bar—induced its acceptance. Contemplation of the situation of the legal profession—for it can never be perfect—must bring anxiety together with hope for the future. The necessity for the lawyer having, apparently, always existed, in one phase or another, assures our confidence that the necessity will continue; but it behooves a guild or profession to look continually to its health so as to be ready to cure its infirmities and to endure rather than perish. What may be our maladies, and what the remedies, possibly history and the comparison which it affords may serve to suggest. Most of us recognize that a condition of ill-health exists among us, but that we are becoming alert for remedy seems also apparent. One phase of our disorder results from the prevalent commercialism of the age,

*First published by Ohio Law Reporter for July 31, 1916.

but whether or not the malady may be remedied for the legal profession alone may be doubted.

Another matter for consideration is whether or not a desirable method of selection be feasible, or if our situation be a phenomenon attending the natural growth of the profession in unison with similar progress in government and society. Undoubtedly, miscellaneous expansion in the profession has to some extent arisen from inevitable conditions of society, partly economic; but when we see revolution in the ideals of the profession tending toward practices abhorrent to its ethics and even shocking to the lay public, and the average moral integrity of the ranks continually descending, we must recognize unsoundness near its foundation.

Bar and bench are complementary, and act and react upon each other. The bench is supplied solely from the bar, consequently the personnel of the bar necessarily affects that of the bench. Conversely, the character of the bench greatly tempers that of the bar. The expansive tendency in bar and bench seems to have involved a large number of incompetents with their attendant abuses. "Ambulance chasing," so-called, is rampant in many quarters, and competition in it has begotten mischiefs even far more grievous, such as the subornation of witnesses, including physicians and surgeons, "tampering with juries," and indulgence in improper argument addressed to them. But the immediate remedy does not seem to be found in the law itself, for it is held, although not by an unbroken line of authorities (**Chreste v. Lou. Ry. Co.**, 167 Ky., 75; ——— v. **Minn.**, ———), that soliciting business is not illegal and that the law can not well draw the line between methods, so that the remedy must, doubtless, be indirect through the coercive influence of public opinion and especially that of the bar. With the legal profession, therefore, the direct cure must come in the inculcation of a higher ethical standard. To allow the abuses just mentioned to continue must bring danger, if not destruction, to the usefulness of the legal profession; for so long as corrupt methods prove successful, competition with their perpetrators without adopting their methods, becomes difficult and may become impossible. Even the lay public, although not so fully appreciating the mischief of the

abuses adverted to, are shocked by them, but unless the bar itself will correct them, the laity will not understand why they should deny themselves the advantages derivable from them; wherefore they will employ the men who profit by them. The result is especially disastrous to the young lawyers, and to their comparatively small business. With them the competition of the shyster is more direct because clients having business of greater import naturally seek the more eminent men of the profession and are not inclined to employ the rascal, unless perhaps for corrupt practices. Accordingly, all abuses work to the degradation of the profession; and the remedy must come from work of reformation upon both bar and bench, and naturally may come from a reformation of their structure, for inasmuch as the promiscuity of the bar has probably been aggravated, so of the bench. Manifestly, the evils flowing from the condition of the bar will increase in proportion to its worst element. As such elements grow in numbers they become bolder, more defiant, more brazen, and their influence increases. As their numbers increase they grow in power and more and more impress their methods on the practice of law. They make it more and more difficult to institute reforms, not only because they are instinctively opposed to them, but also because they are generally too ignorant and indifferent to willingly undergo the labor of conforming to them; so they create abuses for their own ends and interpose obstructions to reformation for their own convenience. They are usually active in politics, and impress themselves upon the imagination of the bench, especially when it is subject to re-election. They delight to be elected to the legislature and there to not only press legislation which disfigures the law for the promotion of their schemes, but to withstand all measures for the betterment of practice or contrived to keep jurisprudence apace with the progress of the age.

Inasmuch, however, as virtue fortunately predominates in mankind, and the virtuous lawyer receives a recognition from the best members of his profession, as well as from the laity, which the others can not secure, the members of the profession will probably prefer correct methods to crooked ones, and if qualified to compete legitimately, the chances of their so doing are great; but the man who

can not compete legitimately must quit the profession or compete illegitimately. The greatest mischiefs and the most numerous, come from the incompetent. Their elimination seems, therefore, an obvious necessity. If eliminated, the chance, too, of their mounting the bench is gone, and consequently the personnel of the bench is preserved. An obvious remedy for our ills is, therefore, the advancement of the standard of admission to the bar. For the advancement of such standard the American Bar Association is entitled to great credit, for it has done splendid work in the last twenty years, in which Mr. Maxwell, an eminent member of this bar, has taken a conspicuous part. Mr. Maxwell said (28 A. B. A. Rep., 1905, p. 582):

> "What might have been the present state of legal education in the United States but for the organized work of this association I will not undertake to say."

The state of Ohio, too, has far surpassed many of its sister states in this respect, so that little need be said here upon the subject. Ohio, however, has progressed, for in 1903 Mr. Maxwell, referring to the salutary rules of your Supreme Court, and subsequent state legislation abrogating one of them, said (26 A. B. A. Rep., p. 570):

> "The statute might have been entitled appropriately, An Act to Protect Vested Interests in Illiteracy."

That he now seems to take satisfaction in the situation in Ohio appears from his remarks at Washington (39 A. B. A. Rep., 1914, pp. 753, 754).

But capability alone does not insure propriety of conduct. The reduction of incapacity in the members of the profession increases the chance of proper conduct by eliminating those most likely to offend, but the capable culprit remains and is the worst. For him the only remedy seems to be discipline, either through direct action or the indirect effect of ethical training. Undoubtedly, we could spare the incompetent lawyer; he brings loss to his clients and injury to himself as well as to his profession, and might make a respectable living otherwise.

A United States Supreme Court justice is reported (28 A. B. A. Rep., 1905, pp. 584, 585) to have said that—

> "It would be a blessing to the profession, and to the community as well, if a deluge would engulf one-half of those who have a license to practice law."

Mr. Frederic R. Coudert (36 A. B. A. Rep., 1911, p. 677) says:

> "The bar can no longer afford to blink the fact 'that the law' has become thoroughly unpopular."

He remarks (p. 682) that the ignorance and the incompetency displayed by the young lawyers coming to the bar in these later years is appalling. The opponent of erudition for the law student considers solely the aspirant to professional honors, and forgets the interests of the public, the paramount consideration.

Even the elimination of the uninformed, however, meets opposition. We claim to be a learned profession, but a certain legislator recently opposed a bill to create a committee of bar examiners because it made provision for academic education. He denominated the term "academic" the joker, which he said was found in every bill. So when we find even lawyers set against compulsory education for the bar, it is a discouraging symptom; but the medical profession have actually accomplished even more than the bar have attempted in most states, so why despair?

Dean Richards (Docket, February 2, 1916; address, December 28, 1915) says:

> "Fifteen years ago medical education was even more commercialized than law, yet today the commercial medical school has been eliminated. Although most states by law require students of medicine to attend medical schools, no state in the Union requires attendance at a law school, or attempts to make any distinction between the man who comes from the office, a poor school, or a good school; indeed, the common type of bar examination favors the poor school.
>
> "This striking difference in the treatment of the candidates for the two professions is due largely to the aggressiveness and unity of the American medical profession, in contrast to the indifference or actual hostility of a large section of the American bar toward higher standards in legal education."

Further, we must not forget the great strides made in public estimation by the bar since colonial days, for the state of Virginia in 1645 endeavored to discourage the adoption of the legal profession by forbidding its members taking office. Massachusetts in 1663 excluded them from membership in the General Court; and the Constitution of Georgia declared it a "base and vile" thing to earn money by pleading. By an ordinance of Plymouth of July 7, 1681, the lawyer's fee was limited to 5s per day and to 2½s per case if he had two cases a day (50 Am. Law Rev., Jan., Feb., 1916, p. 31). What could have been more discouraging! Nevertheless, the bar has superseded all obstacles, and survives.

As little improvement may be expected, as we have seen, from those moved solely by their legal rights, it must come from a higher standard of ethics. Deeper than the direct attempt to raise standards of morality of the bar should be the endeavor to inculcate an ethical pride; and the entire bar should observe the obligation. This conclusion not only seems required by the logic of the situation, but by the study of history and conditions in other countries. In England, for example, the integrity of the bar is maintained through the alma mater of the barrister. The Inns of Court date back to the twelfth and thirteenth centuries. The barrister appears to have always come to the bar solely through one of them. He is thus vouched for by his inn, and it feels responsible for his conduct. It has its antique plate and furniture in which it feels pride, and, above all, its traditions and prestige, which it guards jealously. The maintenance of the latter must depend upon the integrity of its living members. If they fail it, the inn is discredited. The result is that each barrister is a hostage to the credit of the profession. These inns hold a monopoly of admission and of discipline, wherefore the bar is, as far as practicable, assured of protection from impropriety in a barrister.

The high standing of the inns originated in the aristocracy of their students. In Fortescue's time, none but the British nobility composed its students (2 Jeafreson's Book About Lawyers, pp. 136, 137). They had the pride and breeding of the best gentlemen. As wealth was distributed other students were admitted, but it was

difficult to depart from ancient traditions, and probably easy to assimilate the new comer, especially as he was likely to be of the proper material personally. English conditions have been perpetuated to a great extent in Canada, whose situation more nearly resembles ours. The Canadian lawyers have substituted for the discipline of the Inn of Court that of the "Corporation of the Bar and of the Law Society," of which more hereinafter.

Seeing, then, that our ills must be cured rather by raising the standard of competency and elevating the ethical standard of the individual lawyer than by coercion or restraint through the criminal procedure of the law, we may get suggestions to our purpose by a brief glance at the education systems of foreign bars.

Under the German system of admission to the bar (Dr. Mechlemburg's paper, 39 A. B. A. Rep., 1914, p. 908) the student's legal training is preceded by a university education. After three years or more of study students report for first state examination, taken at the courts of appeal before a commission of university professors and the judges of these courts. The examination passed, the candidate may take the oath as a state official and enter upon his professional education, to continue four years. The latter is thoroughly practical. The student is appointed to a local court for nine months, thereafter to a district court for twelve months, then to a procurator's and a solicitor's office for four months each. He then returns to a local court for a year and spends the last six months at a court of appeal, making the total work of forty-seven months, one month's leave in the four years having been allowed. The student is said to become by this method serially an assistant to the judge, drafting under his supervision injunctions, decisions, opinions, etc., as well as performing the work of a clerk in taking down minutes of proceedings; being deputed to defend criminals in lesser cases; an assistant to the procurator, in whose office his work covers the whole field of prosecution; and an assistant to the barrister with whom he draws writs, plaints and acts as counsel for defense, even acting for a barrister in event of his absence or illness.

Upon completing half his course the student returns to a local court to begin the last half, the larger court being chosen. He is

occasionally put in charge of independent work, such as hearing witnesses, acting as judge of wards, and in such work is under the control of the judge, rather nominally than really. Toward the end of his tutelage he receives dossiers for an opinion, or a draft of judgment and its reasons. Side by side with the practical training, for four years theoretical instruction is given him by judges, specially assigned to the work. Finally, the student receives the second examination before the justice examination commission in the ministry of justice.

Mr. Bryce (Vol. 2, p. 670) seems to place Germany at the head of European countries in the extent of theoretical instruction of its law students, and says that—

> "Modern England seems to stand alone in her comparative neglect of the theoretic study of law as a preparation for legal practice,"

although he says other countries, including the Mohammedan East, exact three, four, five or even more years of study before the aspirant begins practical work. Such conditions, however, must have been changed in England, because Professor Emmett (19 A. B. A. Rep., p. 605) said that Oxford and Cambridge, the Inns of Court, and the Incorporated Law Society, were fully alive to the importance of providing a thoroughly systematic course of legal study; and, as we shall see, Professor Hazeltine, and even Mr. Bryce himself, recognize the recent activity in England in extensive legal instruction.

In France (paper of Paul Fuller, 37 A. B. A. Rep., 1914, p. 902) the academic education of the law student (as in Germany) includes three years' study in the university, but the one selected must have the recognition of the state.

The licentiate files his certificate with the solicitor-general, who thereupon notifies the batonnier or presiding officer of the Order of Barristers thereof, and by him the applicant is presented to court to take the professional oath, after his diploma has been found satisfactory, and he then applies to the Order of Barristers for admission to probation. A designated barrister reports upon the applica-

tion of the licentiate and becomes his sponsor to the Order of Barristers. The candidate pays a call upon his sponsor and files the fullest data. His visit is returned, and the personal relations thus established continue throughout the duration of the three probationary years to follow. After investigation the sponsor presents his report to the council of the order and it examines into the facts, and if satisfied of the capacity, propriety, morals and independence of the candidate, admits him to probation. If these are not satisfactory, an opportunity for investigation or explanation is afforded. Upon admission to probation the applicant is entitled to be classed as a barrister, but only on probation. During the three years of probation he may practice his profession. The probationary period is usually spent in the office of a barrister, where daily contact with actual practice in court acquaints the probationer with all the intricacies of his profession. He is required to attend weekly conferences for discussion of legal topics from December to June during the term of probation. These conferences are presided over by the batonnier of the Order of Barristers, assisted by twelve secretaries chosen from among the probationers of the preceding year who have shown the best ability. The selection is made with such discretion that the list selected often contains the names of many eminent lawyers of the future. Attendance is obligatory and is attested by signing a register. Absence without approved excuse is noted, and its too frequent repetition entails an extension of the probationary three-years period. At the conference and meetings required, the probationers acquire familiarity with the usages and regulations of the profession as well as the etiquette and ethics which control the action of the advocate. Moreover, the probationer must be independent; must have his own domicile where those needing his professional services may be free to call on him. Probationers are frequently selected to carry out the benevolent mission which the Order of Advocates impose upon itself of trying the cases of the indigent, under the system known as judicial assistance.

The probationary system is supposed to have been inaugurated by a decree as ancient as March 11, 1344. Much stress is by the French laid upon the importance of practice, mere theoretical knowl-

edge not being regarded as sufficient for the barrister. Henry Millie is quoted (p. 905) as saying, "The practice of our profession demands a familiarity with the mass of petty details which long practice alone can master."

The conferences and debates required of the student are said by a leader of the French bar (p. 906) "to broaden the mind, strengthen and uplift the character, and fortify the best instincts by the infusion of sound doctrine and noble sentiments," etc., whereby it is said that the young lawyer may acquire a proper standard of the dignity and independence indispensable to the profession.

A French writer, however, who somewhat disparages the high professions of disinterestedness made by the French bar, thinks that the system of probation is still unsatisfactory, and that entrance to the profession should not be permitted before the age of twenty-five, and that "as in other professions," the probationary period should precede the entrance into practice and that the unusual period of practice during the probationary period should be abolished; and that, finally, after the probationary period the candidate should be submitted to an examination before a jury of professors, judges and practicing lawyers, as a concluding test of his fitness to practice.

With the English system of admitting barristers and solicitors, and of their discipline after admission, we are generally more familiar than with the admission and discipline of continental barristers; and probably from English and Canadian methods we may glean more of benefit than from those of any other countries.

A most important demand on the law student is that he must identify himself with an inn of court. This seems to have sufficed for centuries to insure proper training and character for the bar. Mr. Thos. Leaming (a Philadelphia Lawyer in London Courts, p. 12, etc.) says:

> "The bar, in short, although a jealously close and exclusive organization, has become a less aristocratic body and is now a real republic where brain and character count.
>
> "Candidates for the bar are mostly university men, more mature in years, perhaps, than our graduates—for boys commence and end their college course late in England—and they are, as a rule, more broadly cultivated than those who intend

to become solicitors." (This was said in contrasting requirements as to barristers and solicitors.)

Again, he says (p. 25):

"Formerly he (embryo barrister) had only to attend a single function—a dinner—during each term, and having, 'eaten twelve dinners' he, ipso facto, became entitled to be called to the bar, no matter how inadequate his knowledge of the law.

"In these less restricted and more prosaic days, he is obliged diligently to apply himself to study and to pass from time to time regular and strict examinations, prescribed by the Council of Legal Education, so that his equipment is no longer left to chance, but is really measured with cold accuracy. The term of study is not less than three years, twelve terms; four in each year must be 'kept' at the inn, the evidence of which is still the fact of dining in the hall six days of each term, although members of the Universities of Oxford and Cambridge need dine but three days in each term.

"An English student's reading is much like that pursued in one of our own law schools, the chief difference being that he devotes more time to mastering general principles than to the consideration of reported cases, from which our students are presumed to extract the underlying principles."

In the inns of court described by Cecil Headlam it is said (p. 9):

"The inns of court and chancery were the Colleges of Lawyers in the London University of Jurisprudence. Here dwelt and here were trained for the courts those guilds or fraternities of lawyers according to a scheme of oral and practical education which they gradually evolved."

A very tangible statement of the English requirements for admission to the bar is given by Harold D. Hazeltine, Esq., of Cambridge, Eng. (37 A. B. A., 1914, p. 912, etc.) He says that university and professional law schools have occupied in the past a secondary position in the whole scheme of training for the active practice of the law; that it has regarded the barristers' chambers and the court room as affording the more important instruction, but that since the third quarter of the nineeenth century a change in professional opinion has been apparent; that university and professional law schools have not only increased in number, but the scope of their curriculum has been broadened and the efficiency of their instruction vastly improved; that only a few years ago there was established

the Society of Public Teachers of Law, a vigorous organization similar in character and aims to the Association of American Law Schools; and that the result of these tendencies in legal education is that an increased number of students begin their legal training by attendance at a university or professional law school.

He points out that solicitors must spend five years as articled clerks in a solicitor's office; must pass the solicitor's examination —distinguished from the law society's law school examination— with exceptions as to students having other acquirements. He states the requirements of a barrister to be that he must be a member of an inn of court at least three years; keep twelve dining terms in the hall of his inn; and pass the bar examination. Certain slight exceptions are made for Oxford and Cambridge students.

Sir James Bryce says (Vol. 2, p. 670) that in most states of our Union some sort of examination for admittance to practice is required; and that a period of reading in a lawyer's office obtains, but that these requirements are easily evaded. But he says:

> "Notwithstanding this laxity, the level of legal attainment in some cities is as high or higher than among the barristers or solicitors of London. This is due to the extraordinary excellence of many of the law schools. I do not know if there is anything in which America has advanced more beyond the mother country than in the provision she makes for legal education. As far back as 1860, when there was nothing which could be called a scientific law school in England, the inns of court having practically ceased to teach law, and the universities having allowed their two or three old chairs to fall into neglect and provided scarce any new ones, several American universities possessed well-equipped law departments, giving highly efficient instruction. Even now, when England has bestirred herself to make a more adequate provision for the professional training of both barristers and solicitors, this provision seems insignificant beside that which we find in the United States, where, not to speak of minor institutions, all the leading universities possess law schools, in each of which every branch of Anglo-American law * * * is taught by a strong staff of able men, sometimes including the most eminent lawyers of the states. Here at least the principle of demand and supply works to perfection," etc.

In colonial times law students who were sufficiently wealthy studied law in the inns of court in London; but we see from Mr. Bryce that today the teaching of law in America far outclasses that in England. Our trouble, therefore, is not the lack of excellent law schools.

It is not my intention to discuss the German, French and English methods of training and admitting lawyers, but I would remark the extremely practical nature of the training of German and French lawyers and of English solicitors, and especially that in Germany and France the student is continually under influences that almost forbid improprieties of conduct and which naturally tend to inspire high ideals.

Our best lessons, however, may be drawn rather from Canada than from England or the Continent. In Canada the traditional distinction between barrister and solicitor still obtaining in England practically does not exist, but an individual may combine all callings of the lawyer. Mr. Bryce says (p. 666) "In the United States, as in some parts of Europe, and most British colonies, there is no distinction between barrister and solicitor. Every lawyer or 'counsel' is permitted to take every kind of business," etc.

Let us see, then, what lessons we may learn from the Canadian system. In Canada lawyers are admitted to the bar by the provinces and not by the Dominion, as in the United States by the states and not by the Federal Government, so there can be, strictly speaking, no such institution as the inns of court. One would think that the difference in qualification of lawyers existing in our states existed in the provinces, but the action of "The General Corporation of the Bar" of Quebec and the Law Society of Upper Canada would seem to give all solicitors or attorneys the same start in legal education.

In the province of Quebec the bar is incorporated under the style "The General Corporation of the Bar" (Stat., Section 4477). The corporation includes the bars of Montreal, of Quebec, of Three Rivers, St. Francis, Arthabaska, Ottawa and Bedford "sections." Each section appears to be a separate corporation subordinate to the general corporation, for example: The section called "The Bar of Montreal," "The Bar of Quebec," etc.

The corporation may make by-laws (a) For maintaining the honor and discipline of its members, (b) for defining and enumerating the professions, trades, occupations, business or offices incompatible with the dignity of the profession of an advocate or with the practice of the profession, (c) for defining the duty of corporate officers, (d) for prescribing the examinations to be passed by candidates for admission to study or practice, and the qualifications required of the candidates (Section 4483).

There is a general council (Section 4487) composed of the batonnier and three dignitaries from the section of the Montreal bar, two of the Quebec bar, one of the bar of Three Rivers and St. Francis, and one, the batonnier of Arthabaska, Ottawa and Bedford. The Attorney General is an ex-officio member of the General Council of the General Corporation, called the "General Council of the Bar of the Province of Quebec." The meetings of the general council are held at Quebec, Montreal and other places pursuant to notice.

The council of each section (Section 4496) comprises a batonnier, a syndic, a treasurer and a secretary, and councilors, of whom there are eight for the section of Montreal, one at least for the country district, eight for the section of Quebec, three for Three Rivers, and St. Francis and the sections aforesaid, and for sections hereafter created.

The syndic is especially charged with the discipline of the bar and required to report improper conduct of its members. The council tries offenders. The council of the section is elected by the members of the section. Members in arrears in dues can not vote.

Examinations for admission to the bar are under control of the general council and are held at stated intervals at different places (Section 4522) The council holds long terms. It is divided into two boards. one for admission to practice and the other for admission to study In order to pass, a candidate must have the votes of the majority of the board.

The general council (Section 4533) may appoint laymen to assist in examining candidates for admission to study, and fix their duties and salaries. The names of candidates shall be posted one month, and published in designated newspapers.

Except as provided in Section 4475, a candidate having a degree of a specified college must stand satisfactory examinations on a liberal classical course, and shall study as a clerk, or student, under an advocate for four consecutive years following his admission to study.

The education and admission of lawyers in Ontario is controlled by the Law Society of Upper Canada, whose history dates to the eighteenth century. The act of 1797 was the beginning of the system. (Wm. Renwick Riddell, address, Chicago, before the Chicago Society of Advocates, 1915.)

Different requirements exist for barristers and solicitors, but few are solicitors who are not also barristers, and the same person generally acts as both.

> "No court can hear a barrister who has not been called by the society. No court can admit a solicitor without the certificate of the society. The society is the sole judge of the fitness and capacity of either and the legal profession is master in its own house." (Riddell.)

In 1859 the legislature gave the law society jurisdiction over attorneys as well as barristers and required it to determine, by such ways and means as it thought proper, the fitness and capacity of the candidate to act as attorney or solicitor. Pursuant to this authority the society made rules dividing the candidates into the university class, the senior class and junior class, the first being graduates of a British university and required to stand examination upon certain Latin and Greek authors, mathematics, metaphysics, astronomy, history, etc. The senior class to stand the same examination, and the junior class to stand examination upon Latin, mathematics and geometry with problems.

An applicant, having passed the university examination, could be called to the bar in three years instead of five years, as otherwise required, and likewise of the senior class. If he failed in his examination, unless rejected in toto, he dropped into the junior class.

Upon the society's petition the legislature authorized it to require of clerks thereafter articled to pass a preliminary examina-

tion as a condition precedent to their term of service, and to make rules for the improvement of legal education, appoint lecturers and require an examination as a prerequisite to a call to the bar or admission as an attorney. Accordingly, the benchers of the society, June 7, 1872, established a curriculum for the preliminary examination of articled clerks, covering Latin, arithmetic, geometry, geography, English history, grammar, composition and elements of bookkeeping. The students-at-law passed an examination upon Latin, mathematics, Euclid, algebra, English history, geography, grammar and composition. The students-at-law also took a more extensive course in Latin and algebra, and the articled clerk on bookkeeping. Graduates in arts of a British university were not subjected to examination.

A law school was established with lecturers at Osgood Hall. Students-at-law before final examination for call had to pass two intermediate examinations in their third and fourth years, the articled clerk corresponding examinations.

The law school began October, 1873. Many students attended it. Those who would have otherwise served their terms in the country were so attracted to Toronto that country practitioners complained of it. A student was permitted to reduce his term from six to eighteen months by attending the law school. In 1889 attendance upon the law school was made compulsory for the second and third years of the course. If the student resided in Toronto he must have attended the full three-years course. In 1889 the society dropped its preliminary examination and thereafter accepted the examination by the university, and now a degree of arts or law of a British university or diploma of some other institutions are held sufficient, and one of them is required.

The law school prescribes an elaborate course of three years' study of law with rigid examinations. The time of service for a university or college graduate is three years, for a non-graduate five. The legislature has ultimately placed in the hands of the profession the regulation and education of all practitioners of the law. The success of the plan has begotten like provisions in the professions of medicine, dentistry and pharmacy. Ontario has tried all methods

of legal education and has found one satisfactory. The lawyers of Ontario themselves erected the law school building and engaged and paid the lecturers and examiners, for a long time at considerable annual loss, through altruism and **esprit de corps.** The same curriculum is established for barristers and solicitors.

It thus appears that in Canada the legal profession was the leader of, while in the United States it is led by, the medical professions.

In a valuable paper (22 A. B. A. Rep., 1899, p. 579) by N. W. Hoyle, Esq., of Toronto, there is an extended review of the Canadian system of legal education and discipline, and the relations of the Canadian and British universities thereto, which well merits perusal. From him we learn that in all the provinces the legislatures have incorporated the members of the legal profession as a society for education of its members and that the society is the only avenue to the practice; that the literary prerequisites of a lawyer are (1) a degree in arts or law in a university of the Dominion; (2) matriculation in some university; or (3) the passing of a prescribed examination of a standard approximate to matriculation; and that in Ontario matriculation in a university of the province is the minimum requirement for admission.

The control of the law society over practitioners is complete and exercised judicially, but without flinching. (Riddell.)

It will be noticed, **first,** that the education and discipline of the lawyer is in the control of a society clothed by statute with complete powers for admission as well as discipline and expulsion; **secondly,** that the body which admits a lawyer has prescribed both academic and legal education covering from three to five years of legal study after the acquirement of an academic education. Inasmuch, therefore, as the bar is interested in the maintenance of its integrity and learning, and has the direct legislative authority to enforce proper education and conduct, the danger of the degradation of the profession seems to be almost prevented.

In the United States each legislature undertakes to provide requirements for admission to the bar, and in some states the legislature seems utterly indifferent to the subject. Many legislators, in-

cluding members of the profession, appear hostile to advancement of the standard of admission. The only discipline of the lawyer in any state is through a proceeding for suspension or disbarment, and apparently no one is by law expressly charged with the duty of instituting the prosecution of a delinquent attorney, or if any one be, such fact is probably seldom known, even to the prosecutor. It must, therefore, be obvious that the English and Canadian bars have a great advantage of us in respect to the discipline of the lawyer, and of legal education also, in many of our states. In a considerable number of the states of the Union the standard for admission to the bar is excellent, and the desire for a higher standard is continually growing, but in a number of states the situation is still bad. Probably the states which have no requirements are better off than those which have some that are not enforced, because clients in the latter states choose attorneys under false pretenses. But as our best law schools are, according to Mr.————————, probably superior to those of any other country, and we know that efficiency goes far to prevent the chief mischiefs to which the members of the profession are addicted by removing the greatest temptation to perpetrate them, it would seem that if we could obtain the legislative requirement of an academic education, and the law degree of an approved school as a prerequisite to practice, we should need only the effect of adequate discipline to accomplish all possible cure for our ills. We have nothing like the English and Canadian means of discipline, and that of the American Bar Association through its canon of ethics has no legal sanction, and is probably held lightly even by many members of that association, and the same is true of state and local associations; so that our resources for improving the moral standard of our profession seem to rest both upon strengthening the control exercised by the associations and upon educating our best lawyers to the importance of exercising unceasingly the power and influence which they possess for punishing improper conduct in members of the profession, and in seeking to advance the independence of the bench by giving the judges a better tenure of office in order to increase their power to punish offenses.

We ought to be unwilling to rest content until we have overcome

in all our states the advantage which other countries, and especially our nearest neighbor, whose conditions are most like our own, have of us, in the system of admission and discipline of the members of the bar.

UTOPIA

'Tis a beautiful thought
Born of dreamland's ken.

Dominating personalities represent great eras. Domination is progression or retrogression. Either causes rebellions, passive and active, in spirit, in strife. From the aftermath emerges strength by knowledge of frailty, unity by suffering and scarifice, sagacity by sophistry, government by failure, nationalism by war, universalism by relation, thus dissipating the theories and hopes of our peace propagandists that in the immediate future, when the horrible din of the present war will be ringing in our ears, awaits an indeterminate era of peace or the millennium.

Poets have dreamed, philosophers have thought of Utopia. Statesmen have debated, prophets have predicted Utopia. Artists have painted, politicians have promised Utopia. Yet, obscured by the halo from the crown, it remains floating about in the ethereal blue, buffeted by the tropical winds of first one and then the other, long sought for, almost illusory, a balloon without ballast.

Properly speaking relation is of two kinds: between human beings consanguinity and affinity, between nations blood and treaty. Primitive man almost invariably responded to the call of blood. As with the man so with the tribe. But as civilization spreads educating the sensus animalis of the masses, increasing the common intelligence,